

## REVISED

August 30, 2013

To: Executive Board

Subject: **North American Bus Industries – Transfer of Agreement**

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### **Recommendation**

Consent to the transfer from North American Bus Industries (NABI) to NABI Bus per Section 58 of Foothill Transit's Agreement No. 12-040 with NABI, and per Section 46 of Foothill Transit's Agreement No. 09-001 with NABI.

### **Analysis**

On June 21, 2013 a Press Release was issued (**Attachment A**) announcing the acquisition of NABI by New Flyer Industries, a well-known and highly-regarded manufacturer of transit buses. As stated in the Press Release, New Flyer plans to operate the NABI bus and NABI parts operation under the names NABI Bus, LLC and NABI Parts, LLC, respectively, within the New Flyer group of companies.

Simultaneous with the issuance of the Press Release, NABI executives contacted Foothill Transit and informed us that after years of negotiations, NABI had been acquired by New Flyer – one of their former competitors in the bus manufacturing industry.

Section 58 of Foothill Transit's Agreement No. 12-040 with NABI states that:

Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of Foothill Transit which consent shall not be unreasonably withheld or delayed. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

**Attachment B** is a letter to Foothill Transit requesting the transfer of Agreement No. 12-040 from NABI to NABI Bus, LLC. Foothill Transit's current CNG fleet of 288 coaches consists of 171 coaches built by NABI. Agreement No. 12-040 with NABI allows for a base order of 30 buses and options for 120 additional buses. The base order of 30 buses is currently in production and the first of these coaches will be delivered to Foothill Transit in the latter part of this calendar year.

A recent visit to the NABI production facility by members of Foothill Transit's management team in mid-August indicated that NABI's established production

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Contract Option – 30 CNG Buses  
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processes remained in place and that work on the Foothill Transit coaches currently in production was progressing on schedule and in line with the terms of our Agreement No. 12-040.

The August 30, 2013 Executive Board agenda includes an item recommending that the Board exercise an option order with NABI Bus for delivery of 30 replacement coaches to be delivered in summer of 2014. These and any future option orders on Agreement No. 12-040 will continue the replacement of Foothill Transit's oldest CNG fueled coaches.

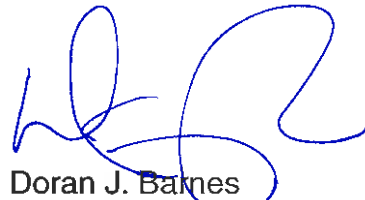
**Budget Impact**

This recommended action will have no impact on Foothill Transit's budget.

Sincerely,



Bobby Magee  
Director of Procurement



Doran J. Barnes  
Executive Director



June 21, 2013

**NEW FLYER ANNOUNCES ACQUISITION OF NORTH AMERICAN BUS INDUSTRIES, INC.  
AND EXTENDS SENIOR CREDIT FACILITY TO 2017**

- **\$80 million cash purchase price.** The transaction is expected to be immediately accretive (before synergies) to earnings per share and cash flow per share.
- **Acquisition includes US-based bus manufacturing operations and service center, and the aftermarket parts distribution business.** Seller to retain NABI's discontinued Hungarian operations, including substantially all related assets and liabilities.
- **Transaction financing consists of approximately C\$65 million from the final tranche of the previously announced Marcopolo S.A. strategic equity investment in New Flyer with the balance drawn from New Flyer's newly-amended senior credit facility (the maturity of which has concurrently been extended to April 24, 2017).**
- **New Flyer maintains conservative balance sheet with pro forma total leverage ratio decreasing to 2.2x (total indebtedness to Adjusted EBITDA, as defined in the credit agreement).**

**Winnipeg, Manitoba, Canada – June 21, 2013:** (TSX:NFI; TSX:NFI.DB.U) New Flyer Industries Inc. ("New Flyer" or the "Company") today announced the acquisition of North American Bus Industries, Inc. ("NABI") from an affiliate of Cerberus Capital Management, L.P. for cash consideration of approximately \$80 million, virtually all for the satisfaction of affiliate debt. The acquisition excludes discontinued operations in Hungary and substantially all related assets and liabilities. NABI was founded in 1992, and was known prior to October 1996 as American Ikarus. The completion of the acquisition and related financing transactions is subject only to confirmation of the required wire transfers of funds which is expected later today.

With bus manufacturing operations in Anniston, AL, a parts distribution center in Delaware, OH, and a service center in Jurupa Valley, CA, NABI is an innovative manufacturer of urban transit buses for U.S. customers. NABI also operates one of the transit industry's most sophisticated aftermarket parts organizations, sourcing parts from over 200 different suppliers and providing support for transit buses throughout North America. For the last twelve months ended March 31, 2013 NABI delivered 582 bus equivalent units ("EUs") with bus revenue of approximately \$268 million, aftermarket parts revenue of approximately \$60 million, and a combined Adjusted EBITDA of approximately \$20 million. NABI currently has a total backlog of 1,579 EUs of which 593 are firm and 986 are options.

New Flyer's Chairman of the Board, the Honourable Brian Tobin, P.C. O.C. commented, "The acquisition of NABI marks an important milestone for New Flyer and is consistent with the Company's strategic plan to ensure market and technology leadership, while providing public transit operators with long-term stability and excellence in product support. We have been able to proceed with this transaction while maintaining a flexible and conservative approach to our balance sheet."



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New Flyer's President and Chief Executive Officer, Paul Soubry explained further, "NABI represents a compelling growth platform for us. The addition of NABI to the New Flyer family provides New Flyer with a highly complementary product line, access to new customers, a cost efficient manufacturing platform based in Alabama, and it creates a significant player in aftermarket parts. The Company plans to operate the NABI bus and NABI parts operations under the names NABI Bus, LLC and NABI Parts, LLC, respectively, within the New Flyer group of companies."

Jim Marcotuli, NABI's President and Chief Executive Officer, added "New Flyer is a world-class company and this acquisition will provide NABI with synergistic opportunities to achieve an even higher level of performance and success. The combined entity will be positioned to provide customers with an enhanced product offering and superior customer service."

"This transaction is mutually beneficial for both New Flyer's and NABI's customers and will provide both companies with access to new resources and customers that will serve as catalysts for future growth," said Dev Kapadia, a Cerberus Managing Director. "We are proud of the operational turnaround that occurred since we acquired NABI in 2006 under the leadership of President and CEO Jim Marcotuli, and with capital resources and extensive operating expertise from Cerberus."

The transaction presents a number of attractive opportunities for New Flyer, including:

- i) **Enhanced Transit Bus Product Offering:** The addition of NABI's low floor (LFW) and bus rapid transit (BRT) product platforms complements New Flyer's Xcelsior™ and MiDi™ product platforms enhancing the Company's ability to provide customers with the best bus for their application or environment. In addition, NABI offers buses incorporating stainless steel frames for customers who have a specific requirement for this feature. There is little overlap in customers for whom the two companies are currently building buses.
- ii) **Expanded Parts Business with Improved Offering and Customer Support:** The addition of NABI's aftermarket parts segment represents a significant step for New Flyer's aftermarket parts business. New Flyer intends to synchronize the parts databases and cross-reference lists of New Flyer, Orion and NABI, which management anticipates will permit the Company to source parts more efficiently and offer expanded supply chain solutions to customers.
- iii) **Synergy Opportunities:** New Flyer has identified opportunities for cost synergies such as in the areas of purchasing and strategic sourcing, plus general and administrative expenses that are expected to improve competitiveness.
- iv) **Collaboration and Sharing of Technology and Best Practices:** The combined entity will employ over 3,000 people who share a like-minded commitment to excellence in heavy-duty transit buses and product support with over 40,000 buses currently in operation in Canada and the US.



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The transaction, including related expenses, is being funded using approximately C\$65 million in proceeds from the issuance of the second and final tranche of the previously announced strategic equity investment in New Flyer by Marcopolo S.A. An additional \$20 million is being drawn from the Company's renewed senior secured credit facility. On a pro forma basis, New Flyer's Total Leverage Ratio (total indebtedness to Adjusted EBITDA, as defined in the credit agreement) would decrease to approximately 2.2x as at March 31, 2013. Furthermore, the transaction is expected to be immediately accretive to New Flyer's earnings per share and cash flow per share.

In April of 2013, NABI entered into a settlement agreement with a customer which provides for an aggregate payment obligation of \$9.25 million over three years, of which \$6.25 million remains to be paid by NABI. In addition, NABI is required to contribute an additional aggregate amount of at least \$5 million over the next five years in the form of parts and services rebates (or cash in lieu thereof). NABI's obligations under the settlement agreement will remain in place following the acquisition.

As noted above, the second and final tranche of Marcopolo S.A.'s strategic equity investment in New Flyer is being completed concurrently with the acquisition. New Flyer is issuing an additional 6,162,304 common shares to Marcopolo S.A. at a price of C\$10.50 per share for gross proceeds of approximately C\$65 million. Marcopolo S.A. will hold approximately 19.99% of the Company's issued and outstanding common shares.

Also concurrent with the acquisition of NABI, the Company completed the amendment and extension of its senior secured credit facility to April 24, 2017 while increasing the total amount of the facilities to \$257 million, an increase of \$45 million. The borrowing limit of the revolving facility has been increased to \$115 million from \$90 million to support working capital fluctuations. The borrowing limit of the term facility has been increased to \$142 million from \$122 million. In addition, certain financial covenants and definitions have been adjusted to reflect the acquisition of NABI. The credit agreement also maintains an accordion feature of \$75 million for future investment or acquisition opportunities.

BMO Capital Markets is acting as exclusive financial advisor to New Flyer in connection with the acquisition of NABI. Torys LLP is acting as primary legal counsel to New Flyer in connection with the transaction. The Bank of Nova Scotia and Bank of Montreal acted as co-lead arrangers and joint-bookrunners on the senior credit facility extension.

Senior management of New Flyer will host a conference call at 9:00 AM (ET) on Monday, June 24, 2013. The call-in number for listeners is 888-231-8191 or 647-427-7450. A live audio feed of the call will also be available at <http://www.newswire.ca/en/webcast/detail/1182391/1295533>. During the call, senior management will be referring to a presentation which will be posted on the New Flyer website later this morning at [www.newflyer.com](http://www.newflyer.com) in the Investor Relations section of the Events and Presentations page.

A replay of the call will be available from 12:00 p.m. (ET) on June 24, 2013 until 11:59 p.m. (ET) on July 1, 2013. To access the replay, call 855-859-2056 or 416-849-0833 and then enter pass code number 95678601. The replay will also be available on New Flyer's web site at [www.newflyer.com](http://www.newflyer.com).



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NOTE: All dollar amounts are stated in US currency, unless otherwise noted.

#### **About New Flyer**

New Flyer is a leading manufacturer of heavy-duty transit buses in Canada and the United States. The Company's three manufacturing facilities – in Winnipeg, MB; St. Cloud, MN, and Crookston, MN – are all ISO 9001, ISO 14001 and OHSAS 18001 certified. The Company currently operates a parts fabrication facility in Elkhart, IN and four parts distribution centers in Winnipeg, MB; Brampton, ON; Erlanger, KY and Fresno, CA. The Company also operates a service center in Arnprior, ON.

New Flyer is a market and technology leader, offering the broadest product line in the industry, including drive systems powered by clean diesel, natural gas and electric trolley as well as energy-efficient diesel-electric hybrid vehicles. New Flyer has delivered over 32,000 heavy-duty buses in Canada and the United States. All products are supported with an industry-leading, comprehensive parts and service network. Further information is available on New Flyer's web site at [www.newflyer.com](http://www.newflyer.com).

The common shares and convertible unsecured subordinated debentures of New Flyer are traded on the Toronto Stock Exchange under the symbols NFI and NFI.DB.U, respectively.

#### **About North American Bus Industries, Inc.**

North American Bus Industries, Inc. produces a comprehensive line of innovative, heavy-duty transit buses from 31' to 60' (articulated) at its headquarters in Anniston, Alabama. North American Bus Industries prides itself on its environmentally responsible vehicles with CNG, hybrid-electric and clean diesel propulsion systems. North American Bus Industries is the market leader with its sleek and stylish BRT (Bus Rapid Transit) vehicles which offer cost-effective alternatives to expensive light rail.

#### **About Cerberus Capital Management, L.P.**

Established in 1992, Cerberus Capital Management, L.P. is one of the world's leading private investment firms. Cerberus has more than US \$20 billion under management invested in four primary strategies: distressed securities & assets; control and non-control private equity; commercial mid-market lending and real estate-related investments. From its headquarters in New York City and large network of affiliate and advisory offices in the US, Europe and Asia, Cerberus has the on-the-ground presence to invest in multiple sectors, through multiple investment strategies in countries around the world.

#### **Financial Terms and Information**

"Adjusted EBITDA" consists of earnings before interest, income taxes, depreciation, amortization and other non-cash charges, adjusted for certain costs related to offerings and certain other types of non-recurring charges as set out in the Company's management discussion and analysis dated May 8, 2013 ("MD&A") available on SEDAR at [www.sedar.com](http://www.sedar.com). The Adjusted EBITDA of NABI described in this press release has been calculated by management in accordance with the definition set out in the MD&A. Management believes Adjusted EBITDA is a useful measure in evaluating the performance of the Company and NABI. However, Adjusted EBITDA is not a recognized earnings measure and does not have a standardized meaning prescribed in accordance with International Financial Reporting Standards ("IFRS"). Readers of this press release are cautioned that Adjusted EBITDA should





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not be construed as an alternative to net earnings or loss determined in accordance with IFRS as an indicator of the Company's and/or NABI's performance.

An equivalent unit or EU represents one 30-foot, 35-foot or 40-foot heavy-duty transit bus and one articulated bus represents two EUs.

In accordance with IFRS, the Company intends to consolidate the revenue, earnings and other financial information of NABI Bus, LLC and NABI Parts, LLC with New Flyer's financial information in its regularly reported financial statements.

**Forward-Looking Statements**

This press release may contain forward-looking statements relating to expected future events, including completion of the required closing wire transfers, the integration of the acquired business into New Flyer's existing business and expected synergies, the diversification and growth of the combined bus and aftermarket parts businesses and the accretive effects of the transaction to revenue, earnings and cash flow of New Flyer. Although the forward-looking statements contained in this press release are based upon what management believes to be reasonable assumptions, investors cannot be assured that actual results will be consistent with these forward-looking statements, and the differences may be material. Actual results may differ materially from management expectations as projected in such forward-looking statements for a variety of reasons, including risks related to acquisitions, joint ventures and other strategic relationships with third parties, market and general economic conditions and economic conditions of and funding availability for customers to purchase buses and to purchase parts or services, customers may not exercise options to purchase additional buses, the ability of customers to terminate contracts for convenience and the other risks and uncertainties discussed in the materials filed with the Canadian securities regulatory authorities and available on SEDAR at [www.sedar.com](http://www.sedar.com). Due to the potential impact of these factors, the Company disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, unless required by applicable law.

**For further information, please contact:**

**For New Flyer Industries, Inc.**

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August 19, 2013

Mr. Doran Barnes  
Executive Director  
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Subject: Foothill Contract 12-040 for Low Floor Compressed Natural Gas (CNG) Buses

Dear Mr. Barnes,

As you and others at Foothill Transit have been informed via the attached news release and in person by me and other NABI and New Flyer executives...on June 21, 2013 NABI was acquired by New Flyer Industries, Inc. of Winnipeg, Manitoba, Canada.

More specifically, the above transaction consisted of NABI Bus, LLC ("NABI Bus"), a Delaware limited liability company indirectly owned by New Flyer Industries, Inc., purchasing the stock of North American Bus Industries, Inc. ("NABI"), an Alabama corporation, from NABI-Optima Holdings, Inc., an affiliate of Cerberus Capital Management, L.P.

In connection with the above noted transaction, NABI was merged into NABI Bus, resulting in the assumption by NABI Bus of the assets and liabilities of NABI by operation of law. As a result of this transaction, the operations of NABI are now the operations of NABI Bus.

Additionally, the operations of NABI Bus are independent of those of New Flyer Industries, and there has been no change in the day to day operations of NABI as a result of the transaction. These recent changes create an excellent climate for additional growth and stability and will be beneficial to all parties, including Foothill Transit.

Foothill Transit's consent is therefore requested regarding the transfer of the subject contract from NABI to NABI Bus, as addressed under Section 58 of the contract.

Sincerely,

Brian Dewsnup  
Vice President & General Manager